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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 11914 of 2004

Between:

Bukya Sriramulu Naik, S/o. Gopaiah,
R/o. Dharmavarapadu Thanda, Jaggaiahpet (M), Krishna District.

..... PETITIONER

AND

- 1 The District Level Committee, Krishna District.
Rep. by its Chairperson, Machilipatnam.
- 2 The District Panchayat Officer, Krishna District, Machilipatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or writ, one in the nature of Writ of mandamus, declaring the action of the respondent in issuing notification in Rc.No.3909/2003-pts-7, dt. 26-06-2004 in notifying the sand quarry reach on Veadri Village, Jaggaiahpet Mandal, Krishna District for public auction as arbitrary, illegal, unjust and unconstitutional and contrary to Andhra Pradesh Minor Mineral Concession Rules, 1966 and consequently direct the respondents to call for a report from the Ground Water Department and report a joint inspection, while setting aside the notification in Rc.No.3909/2003-pts-7, dt. 26-06-2004 to the extent of Veadri Gram Panchayat, Jaggaiahpet Mandal, Krishna district.

Counsel for the Petitioner: SMT.N.SHOBA

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

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THE HON'BLE SRI JUSTICE N.V. RAMANA

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W.P. No. 11914 of 2004

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Oral order:

The petitioner, who claims to be Member of Zilla Parishad Territorial Committee, Jaggaiahpetta Mandal, Krishna District, and has interest in the development of the Panchayat and the agriculturists, has filed this writ petition assailing the action of the District Level Committee in issuing Notification No. 3909/2003-pts-7, dated 26-6-2004, proposing to auction Vedari Reach to public auction, as illegal and arbitrary and contrary to the provisions of the A.P. Minor Mineral Concession Rules, 1966 (for short 'the Rules').

The learned counsel for the petitioner submits that Vedari Reach of Krishna river, which is situated on Reach No.1, has no sand deposits, and that no auctions were conducted for the last four years, and that even the auction of the leasehold rights for the Reach for the lease year 2002-03 was cancelled owing to adverse reports of there being no sand deposits and depletion of ground water level in the vicinity. The learned counsel for the petitioner submits that as per Rule 9-B of the Rules, leases in respect of sand quarrying can be issued only to the extent of sand bearing areas and that too after calling for a report from the Ground Water Department. She states that when there are no sand deposits in the Reach in question, the respondents ought not to have issued the notification seeking to auction the Reach, and more so without having consultations with the Assistant Director of Mines and Geology, which is necessary as per the provisions of Rule 9-C (2) of the Rules and also ignoring the report of joint inspection, conducted by the District Panchayat Officer, Assistant Director of Mines and Geology and the Mandal Revenue Officer, which reported that there are no sand deposits. She submits that if the proposed auction is permitted to go on, and the highest bidder permitted to excavate the sand, there being no sand deposits in the Reach, there is the risk of the already depleted ground water table in the village, being adversely affected, causing irreparable loss to the agriculturists and peasants. She thus prayed that the impugned auction Notification, be quashed and set aside.

On the contrary, the learned Government Pleader for Panchayat Raj and Rural Development appearing on behalf of the respondents submitted that the petitioner has no *locus standi* to challenge the impugned notification, and more so when he is neither an existing leaseholder of the Reach in question nor a person interested in participating in the auction, and therefore, the impugned auction notification, at his instance, cannot be interfered with, and prayed for dismissal of the writ petition.

Having heard the learned counsel for the petitioner and the learned Government Pleader for Panchayat Raj and Rural Development for the respondents, I am of the considered opinion that the petitioner has no *locus standi* to file the writ petition assailing the issuance of notification for leasing out the sand Reach in question, for he is neither an existing leaseholder of the Reach in question nor a person intending to participate in the auction notification.

The only ground on which the petitioner seeks interference by this Court with the impugned notification is that inasmuch as the joint inspection report of the District Panchayat Officer, Assistant Director of Mines and Geology and Mandal Revenue Officer, discloses that there are no sand deposits in Vedari village, the respondents could not have issued the impugned notification, for if the highest bidder is allowed to quarry sand in the Reach, there is the risk of the already depleted ground water table, depleting further, causing loss to the agriculturists and peasants in the village.

The petitioner except stating that if quarrying of sand in the Reach is allowed, the ground water table would be further depleted, had not filed any technical reports of the experts from the Ground Water Department, to show that the ground water level is gone deep, and it would be further deepened if quarrying is permitted.

Though the petitioner placed strong reliance on the report of the joint inspection to contend that there is no sand in the Reach, but a look into the report would disclose that the District Panchayat Officer, Assistant Director of Mines and Geology and Mandal Revenue Officer, made the joint inspection on the directions of the District Collector, purportedly to enquire into the allegations of illicit transportation of sand in Vedari village. They having conducted the joint inspection found that there was no illegal transportation of sand as there were no sand deposits in Vedari village. May be, the report of the joint inspection discloses that there are no sand deposits in Vedari village, but that by itself is not a ground for interfering with the impugned auction notification.

If there are no sand deposits in Vedari village, then it is for the intending participants in the bid to decide whether or not to participate in the auction. When there are no sand deposits, certainly there will be no quarrying, but merely at the instance of the petitioner, who is neither an existing leaseholder nor a participant in the auction, the impugned auction notification can be interfered with by this Court.

In the result, the writ petition is dismissed both on the grounds of locus and merit. No costs.

N.V. RAMANA, J.

Date: July 15 , 2004.

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To

1. The District Level Committee, Krishna District, rep. By its Chairperson, Machilipatnam.
2. The District Panchayat Officer, Krishna District, Machilipatnam.
3. Two CCs to Govt. Pleader for Panchayatraj & Rural Development, High Court of A.P., Hyderabad.
4. Two CD copies.